

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

NO. 7:07-CR-101-FL-1

UNITED STATES OF AMERICA

v.

ANTHONY DANIEL SMITH, JR.,

Defendant.

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ORDER

This matter is before the court on defendant's motion for early termination of supervised release. (DE 251). Upon review of the motion, the response of the government indicating the position of the United States Probation Office, and the record in this case, defendant has not demonstrated good cause for early termination of supervised release. Based on the nature of the offenses of conviction, defendant's criminal history, and the court's reasons for imposition of supervised release, defendant's motion in this part is DENIED. Continuation of supervised release in good standing is consistent with the court's expectations at sentencing.

In addition, the court lacks jurisdiction to consider the remaining part of defendant's motion asserting that his sentence is illegal and that the court should vacate his sentence and close his case. That part of defendant's motion must be recharacterized as a successive petition attacking his conviction and sentence under 28 U.S.C. § 2255. See Gonzalez v. Crosby, 545 U.S. 524, 531 (2005); United States v. Winestock, 340 F.3d 200, 206-07 (4th Cir. 2003). 28 U.S.C. § 2244(b)(3)(A) provides that before a second or successive habeas corpus application may be filed in the district court, the applicant must move the appropriate court of appeals for an order

authorizing the district court to consider the application. Accordingly, defendant's motion in this part is DISMISSED for lack of jurisdiction.

SO ORDERED, this the 1st day of May, 2023.

  
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LOUISE W. FLANAGAN  
United States District Judge